

Remarks

Reconsideration of this Application is respectfully requested. Claims 1-40 and 42-43 are pending in the application, of which claims 1, 20, and 39 are independent. By the foregoing Amendment, claim 39 is sought to be amended. Claim 41 is sought to be cancelled without prejudice or disclaimer. No new matter is embraced by this amendment and its entry is respectfully requested. Based on the remarks set forth below, it is respectfully requested that the Examiner reconsider and withdraw all outstanding objections and rejections.

Drawing Objections

The Examiner, on page 2 of the Office Action, has objected to Figures 1 and 6. The Examiner states that Figure 1 should be designated by a legend such as, for example, -- Prior Art -- because only that which is old is illustrated. Applicants respectfully traverse this objection. However, to expedite prosecution, Applicants have amended Figure 1 to indicate -- Conventional Art --.

The Examiner also states that Figure 6 is objected to because the line connected from condition 614 to condition 606 should have an arrow pointing to the condition 606. Applicants have amended Figure 6 to indicate that the line connected from condition 614 goes to condition 606. Applicants respectfully request that the Examiner, after reviewing amended Figures 1 and 6, withdraw these objections.

Rejection under 35 U.S.C. § 102

The Examiner, on page 3 of the Office Action, has rejected claims 1-5, 14, 20-24, and 30 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,304,948 to Motoyama *et al.* (hereinafter "Motoyama"). Applicants respectfully traverse this rejection. Based on the remarks set forth below, Applicants respectfully request that this rejection be reconsidered and withdrawn.

To anticipate a claim of a pending application, a single reference must disclose each and every element of the claimed invention. *Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 1397 (Fed. Cir. 1986). The exclusion of a claimed element from the single source is enough to negate anticipation by that reference. *Atlas Powder Co. v. E.I. du Pont de Nemours & Co.*, 750 F.2d 1569, 1574 (Fed. Cir. 1984).

With respect to independent claims 1 and 20, the Examiner states that Motoyama teaches every element of these claims. Applicants respectfully disagree. Motoyama does not teach or suggest each and every element of Applicants' claimed invention. For example, Motoyama does not teach or suggest at least the following elements of:

determining whether a file stored on a user/hardware accessible portion of a non-volatile memory device in a computing system has been accessed within a pre-determined period; and

if the file has not been accessed within the pre-determined period, purging the file to enable the recovery of storage space in the user/hardware accessible portion of the non-volatile memory device being occupied by unused or infrequently accessed files.

Contrary to the present invention, which teaches purging the file if the file has not been accessed within a pre-determined period, Motoyama teaches deleting data if the current date/time value is greater than or equal to an expiration date, if a storage device

has failed, or if storage device tampering has been detected. *Motoyama*, Abstract; col. 5, lines 30-50; col. 7, line 21 – col. 8, line 67.

Thus, for at least the foregoing reasons, Applicants respectfully submit that independent claims 1 and 20, and the claims that depend therefrom (claims 2-19 and 21-38, respectively) are not anticipated by *Motoyama*. Applicants respectfully request that the Examiner reconsider and withdraw the rejection of independent claims 1 and 20, and the claims that depend therefrom, respectively.

The Examiner, on page 6 of the Office Action, has rejected claims 39, 40, and 42 under 35 U.S.C. § 102(a) as being anticipated by Applicants Admitted Prior Art (hereinafter AAPA). Applicants respectfully traverse this rejection. Based on the remarks set forth below, Applicants respectfully request that this rejection be reconsidered and withdrawn.

To anticipate a claim of a pending application, a single reference must disclose each and every element of the claimed invention. *Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 1397 (Fed. Cir. 1986). The exclusion of a claimed element from the single source is enough to negate anticipation by that reference. *Atlas Powder Co. v. E.I. du Pont de Nemours & Co.*, 750 F.2d 1569, 1574 (Fed. Cir. 1984).

With respect to claim 39, the Examiner states that AAPA teaches each and every element of this claim. Applicants respectfully disagree. AAPA does not teach each and every element of claim 39. For example, AAPA does not teach or suggest at least the following element of: "... the computer program code of the main system firmware portion includes access-aging policies based on heuristics that are platform specific to enable management of the memory usage of the user/hardware accessible portion,

wherein files stored within the user/hardware accessible portion are purged when the files have not been accessed within a pre-determined period of time.”

Thus, for at least the foregoing reasons, Applicants respectfully submit that independent claim 39, and the claims that depend therefrom (claims 40, 42, and 43) are not anticipated by Motoyama. Applicants respectfully request that the Examiner reconsider and withdraw the rejection of independent claim 39, and the claims that depend therefrom.

Rejection under 35 U.S.C. § 103

The Examiner, on page 7 of the Office Action, has rejected claims 15-18 and 34-37 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,304,948 to Motoyama *et al.* (hereinafter “Motoyama”). Applicants respectfully traverse this rejection. Based on the remarks set forth below, Applicants respectfully request that this rejection be reconsidered and withdrawn.

Claims 15-18 and 34-37 depend from independent claims 1 and 20, respectively, which are patentable over Motoyama for at least the reasons stated above. Applicants therefore respectfully request that the Examiner reconsider and withdraw the rejection of dependent claims 15-18 and 34-37.

The Examiner, on page 9 of the Office Action, has rejected claims 6-11, 19, 25-30, and 38 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,304,948 to Motoyama *et al.* (hereinafter “Motoyama”) in view of U.S. Patent No. 6,983,465 to Mandel *et al.* (hereinafter “Mandel”). Applicants respectfully traverse this

rejection. Based on the remarks set forth below, Applicants respectfully request that this rejection be reconsidered and withdrawn.

Claims 6-11, 19, 25-30, and 38 depend from independent claims 1 and 20, respectively, which are patentable over Motoyama for at least the reasons stated above. Furthermore, Mandel does not teach or suggest the features missing from Motoyama. Applicants therefore respectfully request that the Examiner reconsider and withdraw the rejection of dependent claims 6-11, 19, 25-30, and 38.

The Examiner, on page 16 of the Office Action, has rejected claims 12, 13, 31, and 32 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,304,948 to Motoyama *et al.* (hereinafter "Motoyama") in view of U.S. Patent No. 6,983,465 to Mandel *et al.* (hereinafter "Mandel") and further in view of Applicant Admitted Prior Art (hereinafter AAPA). Applicants respectfully traverse this rejection. Based on the remarks set forth below, Applicants respectfully request that this rejection be reconsidered and withdrawn.

Claims 12, 13, 31, and 32 depend from independent claims 1 and 20, respectively, which are patentable over Motoyama for at least the reasons stated above. Furthermore, Mandel and AAPA do not teach or suggest the features missing from Motoyama. Applicants therefore respectfully request that the Examiner reconsider and withdraw the rejection of dependent claims 12, 13, 31, and 32.

The Examiner, on page 18 of the Office Action, has rejected claim 41 under 35 U.S.C. § 103(a) as being unpatentable over Applicant Admitted Prior Art (hereinafter AAPA) in view of U.S. Patent No. 6,304,948 to Motoyama *et al.* (hereinafter "Motoyama"). Applicants have cancelled claim 41 without prejudice or disclaimer,

rendering this rejection moot. Applicants respectfully request that the Examiner withdraw this rejection.

The Examiner, on page 19 of the Office Action, has rejected claim 43 under 35 U.S.C. § 103(a) as being unpatentable over Applicant Admitted Prior Art (hereinafter AAPA) in view of U.S. Patent No. 6,983,465 to Mandel *et al.* (hereinafter "Mandel"). Applicants respectfully traverse this rejection. Based on the remarks set forth below, Applicants respectfully request that this rejection be reconsidered and withdrawn.

Claim 43 depends from independent claim 39, which is patentable over AAPA for at least the reasons stated above. Furthermore, Mandel does not teach or suggest the features missing from AAPA. Applicants therefore respectfully request that the Examiner reconsider and withdraw the rejection of dependent claim 43.

Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all currently outstanding objections and rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Response is respectfully requested.

Respectfully submitted,

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